

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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PEOPLE OF THE STATE OF NEW YORK

-against-

RAFAEL PEREZ

Defendant

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Ind. No. 1CR295-02

Chief Judge Kane

I hereby make this further application with additional information on behalf of Rafael Perez-

1) On November 1, 2007, the United States Sentencing Commission amended the Drug Quantity Table and reduces the offense level for offenses involving cocaine base. (Amendment 706).

2) On December 12, 2007, the United States Sentencing Commission announced its decision to apply the amendments to the crack guidelines retroactively effective March 3, 2008 and listed Amendment 706 in the new U.S.S.G. §. 1B1.10©.

3) Pursuant to 18 U.S. C. § 3582(c)(2), "in the case of defendant who has been sentenced to a term of imprisonment based on a Sentencing Commission... upon motion of the defendant ... the court may reduce the term of imprisonment, after considering the factors set forth in section(a) to the extent that they are applicable,...."

4) Based upon my understanding of the new law that under the retroactive application of the amendment to the sentencing guidelines, Rafael Perez' base offense level is reduced to 30

and is further reduced by 2 levels for acceptance of responsibility and 3 levels for his diminished capacity departure. This results in a total offense level of 25.

5) Rafael Perez' new sentencing range is 70 to 87 months.

6) A top of the range sentence would be 87 months.

7) Because Rafael Perez had been sentenced to a term of imprisonment based on a sentencing range that has subsequently lowered by the Sentencing Commission, he moves this Honorable Court to reduce the term of imprisonment in accordance with 18 U.S.C. § 3582 (2) to a time served sentence.

8) Under the above circumstances, counsel's best estimate of Rafael Perez' new projected release date is March 2008. By the time a presentence report addendum is completed and the case is ready for disposition, Mr. Perez should have served an 87 month sentence.

9) Counsel requests that the time served sentence be effective immediately.

The new probation report may be different from my computations.

Wherefore, it is respectfully requested your honor grant the foregoing motion.

Dated - March 12, 2008

Respectfully,

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Amelio P. Marino

